

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORKRECEIVED  
SDNY PRO SE OFFICE

2016 FEB -2 AM 10:00

Keith Drew

(In the space above enter the full name(s) of the plaintiff(s).)

-against-

## COMPLAINT

under the  
Civil Rights Act, 42 U.S.C. § 1983  
(Prisoner Complaint)Jury Trial: ☒ Yes ☐ No  
(check one)SEE ATTACHED

16CV 0774

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Part I. Addresses should not be included here.)

## I. Parties in this complaint:

- A. List your name, identification number, and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff

Name

Keith Drew

ID #

349-15-08356 /

Current Institution

George R. Verno Center

Address

09-09 Hazen Street  
East Elmhurst, New York, 11370

- B. List all defendants' names, positions, places of employment, and the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant No. 1

Name

City of New York

Shield #

Where Currently Employed

Address

DEFENDANTS

PAGE 1A

- 1) City of New York
- 2) Warden Augustus, G.R.V.C
- 3) Captain Jane Doe, Disciplinary Hearing
- 4) Captain Faulks - Shield #1304
- 5) Captain Vallejo
- 6) Captain Cumberbatch
- 7) Correction Officer Rudder - Shield #17509
- 8) Correction Officer Kinloch - Shield #13764
- 9) Correction Officer Jackson - Shield #9928
- 10) Correction Officer M-Wilder - Shield #2293
- 11) Correction Officer Foster - Shield #1876

Parties in the Complaint

PAGE 2A

- 6 - 11) Captain Cumberbatch  
Correction Officer Rudder #17509  
Correction Officer Kinloch #13764  
Correction Officer Jackson #9928  
Correction Officer M-Wilder #2293  
Correction Officer Foster #1876

All these parties are employed at:

George R. Verno Center  
09-09 Hazen Street  
East Elmhurst, New York  
11370

Defendant No. 2 Name Warden Augustus Shield # \_\_\_\_\_  
 Where Currently Employed George R. Verno Center  
 Address 09-09 Hazen Street  
East Elmhurst, N.Y., 11370

Defendant No. 3 Name Captain Jane Doe Shield # \_\_\_\_\_  
 Where Currently Employed George R Verno Center  
 Address 09-09 Hazen Street  
East Elmhurst, N.Y., 11370

Defendant No. 4 Name Captain Faulks Shield # 1304  
 Where Currently Employed George R Verno Center  
 Address 09-09 Hazen Street  
East Elmhurst, N.Y., 11370

Defendant No. 5 Name Captain Vallejo Shield # \_\_\_\_\_  
 Where Currently Employed George R Verno Center  
 Address 09-09 Hazen Street  
East Elmhurst, N.Y., 11370

## II. Statement of Claim:

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

- A. In what institution did the events giving rise to your claim(s) occur?  
All these events occurred in the George R. Verno Center on Riker's Island
- B. Where in the institution did the events giving rise to your claim(s) occur?  
These events are institution and department wide
- C. What date and approximate time did the events giving rise to your claim(s) occur?  
These events began at about 3:00 p.m. on December 1, 2015



D. Facts:

What happened to you?

Who did what?

Was anyone else involved?

Who else saw what happened?

SEE ATTACHED

### III. Injuries:

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received.

Denial of medical attention arbitrarily with deliberate indifference to age and physical condition resulted in a fall down a flight of stairs that caused numerous injuries, which included the head, back, and neck with treatments that are ongoing

### IV. Exhaustion of Administrative Remedies:

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." Administrative remedies are also known as grievance procedures.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

Yes ☒ No ☐

STATEMENT OF CLAIM

PAGE 3A

On the basis of gender or the fact that Plaintiff is fifty-two years old defendants have established a pattern and policy of discrimination and conspiracy toward this middle-aged male that has adversely affected his current condition of confinement and has violated numerous constitutional rights guaranteed to him.

Discrimination

1) Correc § 138(1) states in pertinent part: All institutional rules and regulations defining and prohibiting inmate misconduct shall be published and posted in prominent locations within the institution, and subsection (2) states that all inmates shall be provided with written copies of these rules upon admission to the institution. (Correction Law § 138 is submitted herein as Exhibit 1)  
 Tuesday December 1, 2015, Plaintiff Drew - hereinafter - The Plaintiff was subjected to a form of harassment at the whim of Correction Officer Rudder Shield #17509 that encompassed several female members of the Department of Correction - hereinafter - The Dept. and is contended herein to be discriminatory toward Plaintiff on the basis of his age or gender.

2) The rules and regulations of the Dept. are required for both sexes of the inmate population and should not interfere with any constitutionally protected liberty interests. The first day that Plaintiff participated in the newly developed correctional programming of Individualized Corrections Achievement Network or I-CAN, defendant Rudder reacted negatively to my choice of dress and attempted to coerce Plaintiff to remove his T-shirt from inside of his underwear by commenting on his age and how it was not appropriate at that age to dress in this manner.



STATEMENT OF CLAIM

3) Plaintiff's manner of dress has been criticized by all female defendant(s) in this matter and Plaintiff contends that they initiated the following actions in an effort to punish me for insubordination. There are no rules posted to direct the manner in which a person chooses to dress and I contend that the unlawful direct order to take my T-Shirt out of my underwear is a discriminatory action that is not designated for the female inmate population.

Assuming *arguendo* that it is not based on gender, the only other alternative, considering all the following misconduct, is that the order was age-biased.

Conspiracy

4) Defendant(s) Rudder and Capt. Faulks #1304 falsely accused me of the charge of Threats to Staff in violation of rule 127.10 with the express desire to maliciously and sadistically cause the Plaintiff harm with punishment as the end result.

5) Disciplinary Hearing Captain Jane Doe and C.O. Kinloch #13764 conspired together to find me guilty of this charge without the benefit of a hearing to address this charge.

6) Capt. Faulks and Capt. Vallerio denied the Plaintiff emergency medical treatment on 1/8/2016 that resulted in me falling down one flight of stairs and receiving numerous unnecessary injuries.

7) C.O. Wilder joined in this conspiracy by refusing to serve Plaintiff with a Disciplinary Disposition on 12/9/2015 which served to prevent me from appealing any adverse disciplinary ruling.

STATEMENT OF CLAIM

8) Defendant(s) Cumberbatch and Augustus were deliberate and indifferent to Plaintiff's complaints concerning these conspiratorial actions on December 7, 2015 as to Capt. Cumberbatch and December 20, 2015 as to Warden Augustus.

9) Warden Augustus offered Plaintiff no assistance nor did he take any action on Plaintiff's behalf which contributed to the emotional distress and mental anguish the Plaintiff was suffering.

10) Defendant Cumberbatch did not intervene on Plaintiff's behalf with C.O. Kinloch when my classification score was increased by 7 points by her using a conviction to 127.10 when in fact Plaintiff had never even been afforded a hearing to adjudicate charge 127.10 on December 7, 2015

11) These actions by defendant(s) demonstrate a reasonable pattern and policy of conduct that is knowingly, permitted, tolerated, and encouraged which has conspired to inflict subtle forms of punishment upon this Plaintiff that has served to unduly harshen his confinement conditions.

12) The transfer to high-classification introduced Plaintiff to a new round of mistreatment at the hands of defendant(s) Foster # 1876 and Jackson # 9928

13) January 6, 2016, I was put in jeopardy by the false accusation of being an old pedophile that was leveled at me by C.O. Foster # 1876. Another example of the long line of accusations that Plaintiff has been subjected to at the hands of female correction members



## STATEMENT OF CLAIM

14) January 8, 2016, defendant Jackson #9928 wrecked Plaintiff's cell and removed personal possessions that were authorized by the Dept. in front of numerous surveillance cameras in building 3 of the George R. Verno Center all while Plaintiff was receiving medical attention in the Main Clinic.

~~All the~~ Affirmation of the witnesses is submitted as EXHIBIT A.)

15) Plaintiff contends that it is a Matter of Law that cell searches be conducted in the presence of the inmate or in the interim the inmate is notified of those responsible for the search. Neither of these things happened during the incident of January 8, 2016

16) Defendant(s) Vallejo and Faulks #1304 were the 2 women who ordered defendant Jackson to carry out his rampage and they were the ones responsible for Plaintiff falling down the stairs after he had previously requested medical attention.

17) Defendant(s) Vallejo and Faulks threatened to lock-in the entire 3 building dormitory if I continued to demand medical attention and as a result I was threatened by the entire 3 building dormitory with physical harm.

18) Responding to these threats and going to the cell, Plaintiff fell down a flight of stairs and was then provided with emergency medical attention and escorted to the Main Clinic.



## STATEMENT OF CLAIM

### Conclusion

- 19) Plaintiff is suffering undue harm in High-Classification regarding Access to Court, Programming, and numerous other privileges and is seeking relief for defendant(s) discrimination conspiracy, and deliberate indifference acts.
- 20) Plaintiff is seeking declaratory relief as to the proper procedure for cell searches. In High-Classification, Plaintiff has had the cell he is assigned to searched 3 separate times December 15 and 16 and January 8 without being present or being notified of those responsible for conducting the search. Also, Plaintiff has lost clothes that were being washed when they were maliciously thrown in the garbage during searches. This action demonstrates a policy of the department of harassing the High-Classification Category by not addressing their laundry rights.
- 21) Plaintiff is seeking Injunctive Relief as to the proper procedure for Programming. Plaintiff has not been permitted to Program since December 1, when he received that threat to staff charge. Also in High-Classification, 3 building was lock-in from December 13 through December 18 which totaled 6 days, yet the Plaintiff's 10 day punitive segregation total remained at 10 days. In essence Plaintiff did 6 days in punitive segregation from December 13 through 18 without receiving credit because it wasn't a punitive segregation unit.



## STATEMENT OF CLAIM

### Conclusion Continued

22) Plaintiff is seeking Punitive and Actual Damages regarding defendant(s) deliberate indifference to serious medical needs, their conspiratorial actions in the furtherance of their age or gender-biased discrimination, and their gender-biased threats to Plaintiff's safety.

23) C.O. Rodder #17509 conspired with Capt. Faulks #1304 C.O. Kinloch #13764 conspired with Capt. Jane Doe, Disciplinary Hearing Captain and C.O. M. Wilder #2293 to achieve the goal of 'making my life a living hell' in the words of C.O. Kinloch on December 21, 2015.

24) Plaintiff was adjudicated guilty of the threat to staff charge 2 days before the actual hearing of the charge, and Capt. Lumberbatch took no action to prevent this injustice when he ordered the transfer on December 7, 2015 to High Classification.

25) After being informed of all complaints this Plaintiff has with staff on December 20, 2015, defendant Augustus offered Plaintiff no assistance and offered no recommendation on how the situation could be rectified, demonstrating a negligent outlook on the part of the Warden of G.R.V.C. and is a contributing factor in the violation of Plaintiff's Constitutional Rights.



If YES, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

Confined in George R. Verno Center  
09-09 Hazen Street, East Elmhurst, NY, 11370

B. Does the jail, prison or other correctional facility where your claim(s) arose have a grievance procedure?

Yes ☒ No ☐ Do Not Know ☐

C. Does the grievance procedure at the jail, prison or other correctional facility where your claim(s) arose cover some or all of your claim(s)?

Yes ☒ No ☐ Do Not Know ☐

If YES, which claim(s)? Classification, Property Loss

D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose?

Yes ☒ No ☐

If NO, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

Yes ☐ No ☐

E. If you did file a grievance, about the events described in this complaint, where did you file the grievance?

Grievance Coordinators Office

1. Which claim(s) in this complaint did you grieve? The illegal change in

classification category and illegal search and confiscation of property

2. What was the result, if any? Classification is still unauthorized

and property hasn't been returned

3. What steps, if any, did you take to appeal that decision? Describe all efforts to appeal to the highest level of the grievance process.

All appeals have been denied or ignored

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here: \_\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

2. If you did not file a grievance but informed any officials of your claim, state who you informed,

when and how, and their response, if any: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

- G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

Denied the opportunity to appeal Disciplinary Disposition because I was never notified of the disposition in violation of Department of Correction procedure which led to the inference of a dismissal to all charges

**Note:** You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.

**V. Relief:**

State what you want the Court to do for you (including the amount of monetary compensation, if any, that you are seeking and the basis for such amount).

All female defendant(s) that are found to have conspired against Plaintiff on the basis of age or gender have violated my rights and are hereby demanded to be liable for punitive and ~~for~~ actual damages in their individual and official capacities to the amounts determined at trial. Correction Officer Jackson #9928 has violated my 5th Amendment on numerous occasions and is a consistent threat to my physical and mental health and should be liable for punitive and compensatory damages in his individual and official capacities to the amounts of one hundred thousand dollars (\$100,000) individually and severally.

**VI. Previous lawsuits:**

- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes \_\_\_\_\_ No ☒

On  
these  
claims



- B. If your answer to A is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another sheet of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff \_\_\_\_\_

Defendants \_\_\_\_\_

2. Court (if federal court, name the district; if state court, name the county) \_\_\_\_\_

3. Docket or Index number \_\_\_\_\_

4. Name of Judge assigned to your case \_\_\_\_\_

5. Approximate date of filing lawsuit \_\_\_\_\_

6. Is the case still pending? Yes \_\_\_\_ No \_\_\_\_

If NO, give the approximate date of disposition \_\_\_\_\_

7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) \_\_\_\_\_

\_\_\_\_\_

On  
other  
claims

- C. Have you filed other lawsuits in state or federal court otherwise relating to your imprisonment?  
Yes ☒ No \_\_\_\_

- D. If your answer to C is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff \_\_\_\_\_

Defendants SEE ATTACHED

2. Court (if federal court, name the district; if state court, name the county) \_\_\_\_\_

3. Docket or Index number \_\_\_\_\_

4. Name of Judge assigned to your case \_\_\_\_\_

5. Approximate date of filing lawsuit \_\_\_\_\_

6. Is the case still pending? Yes \_\_\_\_ No \_\_\_\_

If NO, give the approximate date of disposition \_\_\_\_\_

7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) \_\_\_\_\_

\_\_\_\_\_

ON OTHER CLAIMS

PAGE 6A

1) Parties:

1) Keith Drew, Plaintiff  
against  
City of New York et. al

2) Keith Drew, Plaintiff  
against  
Correction Officer Nelson,  
Dr. Green

2) Court:

1) United States District Court  
Southern District of New York

2) United State District Court  
Eastern District of New York

3) Docket Numbers:

1) 15 CIV 7073

2) 15 CIV 1530

4) Judges:

1) P. Kevin Castel

2) William F Kunst II

5) Date of Filing

1) Sept. 8, 2015

2) March 18, 2015

6) Case Pending:

1) Yes

2) Yes

7) Result:

1) Open for Discovery

2) Motion to Dismiss



I declare under penalty of perjury that the foregoing is true and correct.

Signed this 19 day of January, 2016

Signature of Plaintiff

Keith Drew

Inmate Number

[REDACTED]

Institution Address

09-09 Hazen St

East Elmhurst

New York

11370

**Note:** All plaintiffs named in the caption of the complaint must date and sign the complaint and provide their inmate numbers and addresses.

I declare under penalty of perjury that on this 19 day of January, 2016, I am delivering this complaint to prison authorities to be mailed to the *Pro Se* Office of the United States District Court for the Southern District of New York.

Signature of Plaintiff:

Keith Drew

# **EXHIBIT 1**



## § 138. Institutional rules and regulations for inmates at all correctional facilities

| History | References | Notes of Decisions |

1. All institutional rules and regulations defining and prohibiting inmates misconduct shall be published and posted in prominent locations within the institution and set forth in both the English and Spanish language [languages] \* .

\* The bracketed word has been inserted by the Publisher.

2. All inmates shall be provided with written copies of these rules and regulations upon admission to the institution and all inmates presently incarcerated in a correctional facility shall be provided with written copies of these rules and regulations.

3. Facility rules shall be specific and precise giving all inmates actual notice of the conduct prohibited. Facility rules shall state the range of disciplinary sanctions which can be imposed for violation of each rule.

4. Inmates shall not be disciplined for making written or oral statements, demands, or requests involving a change of institutional conditions, policies, rules, regulations, or laws affecting an institution.

5. No inmate shall be disciplined except for a violation of a published and posted written rule or regulation, a copy of which has been provided the inmate.

6. All rules and regulations pertaining to inmates established by the department of<sup>1</sup> *corrections and community supervision* and all rules and regulations pertaining to inmates established by any institutional staff at any state correctional facility shall be reviewed annually by the commissioner of the department of<sup>2</sup> *corrections and community supervision* .

### HISTORY:

Add, L 1975, ch 231, § 1, eff Sept 1, 1975; amd, L 2011, ch 62, § 22 (Part C, Subpart A), eff March 31, 2011

## EXHIBIT A



STATEMENT OF FACT

On January 11, 2016, several inmates that had witnessed Correction Officer Jackson #9928 confiscate all of my personal property on January 8, 2016, donated different items of their own personal property for this plaintiff to wear. At this time, these inmates will declare under penalty of perjury pursuant to 28 U.S.C § 1746 that for all the aforementioned reasons stated they have provided plaintiff with clothing from their own personal possessions to assist him.

Witnesses

~~E. S. Anderson~~ B251400440

SAXON

349-15-10982

James Newman 349-11-01841

Keith Drew, v. City of New York et.al  
Plaintiff Defendant(s)

AFFIDAVIT IN SUPPORT Civil Action No.  
of  
ORDER TO SHOW CAUSE 1 OF 4

Keith Drew, being duly sworn according to the law depose and say that I am the plaintiff in the above entitled proceeding and am personally familiar with the facts and circumstances herein stated.

Although I am personally familiar with all of the facts and statements hereinafter stated to the best of my knowledge, information, and belief I am a lay person in matters of the law and seek this Court's indulgence for errors, defects, and faults pursuant to Section 2101(F) of the Civil Practice Law and Rules.

I, the Plaintiff, respectfully request the Court to Order the Defendant(s) to Show Just Cause why the Administrative Decisions and Policies created and enacted by the Defendant(s) have unfairly and unduly suppressed and violated Plaintiff's Civil and Due Process Rights or cease their implementation immediately.

As I outline in the following Statement and Legal Argument the Department of Correction knowingly and willfully enacted these Administrative Decisions and Policies without regard for the impact on the detainee population and this plaintiff particularly or their consequences on the Due Process and Civil Rights Laws.



AFFIDAVIT IN SUPPORT

2 OF 4

Accordingly, I pray for the relief that all Dept. Administrative Decisions and Policies challenged herein, are vacated as violations of law and that I am returned to my original status prior to the enactment of said Administrative Decisions and Policies.

STATEMENT OF FACT

1) Tuesday, December 1st, 2015, the Plaintiff was falsely accused of threatening staff by Captain Faulks #1304 and Correction Officer Rudder #17509 with the express desire to cause him harm and punish him because he protested their unlawful direct order to remove his T-Shirt from being tucked inside of his underwear. As of this date, Plaintiff has not been allowed to attend the I-CAN program again.

2) Plaintiff was selected by Correctional Health Services to attend 2 different Programs during this incarceration. The first was in A.M.K.C and it was called A Road Not Taken (ARNT) and then in G.R.V.C the Individualized Corrections Achievement Network (I-CAN) (All copies of these selections are submitted as Exhibit 1)

3) I was removed from both of these programs because of false accusations of female staff members. In A.M.K.C, Plaintiff was accused of biting a correction officer and transferred to G.R.V.C and in G.R.V.C I was accused of threatening to stab an officer Rudder simply because she told me to remove my T-Shirt from my underwear

AFFIDAVIT IN SUPPORT

3 OF 4

STATEMENT OF FACT

4) This response apparently didn't seem too outlandish to any of the ones responsible for investigating these charges. In fact, Plaintiff was found guilty of the charge, and ordered into High-Classification on December 7, two days before I actually had a Disciplinary Hearing. It is apparent that the verdict had already been established and the hearing was only a formality.

5) The actions of M-Wilder Shield 2293 and C.O. Kinloch shield 13764 revealed to Plaintiff that his rights were purposely being violated and at this time I'm seeking redress.

6) C.O. M-Wilder #2293 never notified this Plaintiff of any result to the hearing including, but not limited to, a Disciplinary Disposition which precluded any attempt to appeal an adverse decision since it is unwritten policy that no disposition indicates a dismissal of all charges which is not an unreasonable assumption.

7) C.O. Kinloch #13764 in her arrogance began to brag about her part in the conspiracy on December 21 and how she was responsible for the present classification score. The sheet with the score had no signature or other marks identifying those responsible even though there are vacant spots for those marks.



AFFIDAVIT IN SUPPORT

4 of 4

Statement of Fact

8) Warden Augustus was notified by this Plaintiff of all the numerous complaints against staff members on December 20, 2015, in the G.R.V.C Main Clinic and was asked to intervene on my behalf by placing ~~him~~<sup>me</sup> back in low-class since I never threatened to stab anyone and by instructing his subordinates to put an end to any and all punishment that Plaintiff was experiencing up to that time.

Warden Augustus offered Plaintiff no assistance and no recommendation on how the situation could be rectified which demonstrated a negligent outlook on his behalf and contributed to the suffering of the Plaintiff due to this conspiracy.

9) No other application for the relief herein has been made to this or to any other court.

WHEREFORE, this Plaintiff respectfully prays that based on the above, and taking into consideration the facts and arguments herein, that an order be issued directing defendants to SHOW JUST CAUSE as to why the relief sought should not be granted pursuant to the aforesaid sections of the Civil Practice Law and Rules, or, in the alternative, an order be issued granting partial relief, or whatever relief the Court deems fit and appropriate to ensure the swift and proper administration of justice.

Yours

Sworn to before me this

14<sup>th</sup> day of

2016

RUTH MARGANO

NOTARY PUBLIC-STATE OF NEW YORK

No. 01MA5088836

Qualified in Nassau County

My Commission Expires December 01, 20

Keith Drew

Plaintiff

NOTARY PUBLIC / COMMISSIONER OF DEEDS